

**Illinois Department of Revenue
Regulations**

Title 86 Part 150 Section 150.305 Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable

TITLE 86: REVENUE

**PART 150
USE TAX**

Section 150.305 Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable

- a) The limitation in the Act to the effect that the tangible personal property must be purchased at retail from a retailer excludes, from the Use Tax, the use of tangible personal property produced by the user himself or acquired by the user by way of a gift or in some manner other than by means of a purchase.
- b) However, although the user is not taxable on the value of the finished product which he produces himself, such user is taxable on the purchase price of the tangible personal property that he purchases and incorporates into such finished product which he uses in this State, such purchase being a purchase at retail or a purchase for use.
- c) Although the donee in a gift situation is not a taxable user, the donor who purchases the property and gives it away makes a taxable use of the property when making such gift. For example, if a cellular phone company gives cellular phones to its customers as part of a sales promotion, it owes Use Tax on its cost price of the phones that are given away. In this situation, the cellular company, as donor, is considered to have used the items by giving them away.
- d) The limitation that the purchase must be made at retail from a retailer for the Use Tax to apply also excludes, from the tax, the use of tangible personal property purchased from an isolated or occasional seller who is not engaged in the business of selling such tangible personal property. The exclusions discussed in this paragraph are necessary to make the Use Tax complementary to the Retailers' Occupation Tax.
- e) The Use Tax does not apply to the rental payments made by a lessee to a lessor. However, except as is noted in Section 150.306 of this Part, the lessor is legally the user of the property and is taxable on the purchase price thereof.

(Source: Amended at 24 Ill. Reg. 10728, effective July 7, 2000)